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From the idea of “good change” to the State Tribunal? Some reflections on the practice of the presidency in Poland after 2015

1. Introductory remarks

When taking power in 2015, the united right-wing political formations wanted to demonstrate that the entire legacy of previous governments needed to be changed and repaired, and therefore hailed the intended political undertakings and planned reforms as the so-called “good change.”¹

he name initially even became the presidential campaign slogan of A. Duda just in 2015, when he was competing for re-election with B. Komorowski². Today, after eight years of right-wing rule, this name, in the context of the Law and Justice Party's (PiS) actions destroying the state, in a significant part of the public reluctant to the ruling system in the country, has an unequivocally ironic dimension. For it quickly became apparent that the guiding idea of the “good change” is to be a process of “extinguishing the rule of law” (Prof. Jerzy Zajadło and

¹ This was a propaganda concept created for the presidential campaign of A. Duda in 2015. R. Piotrowski, among others, writes on this subject in *Konstytucjonalizm „dobrej zmiany”, „Państwo i Prawo”* 2022, No. 10, p. 355.

² Prof. M. Wyrzykowski in 2017 described the actions of the Law and Justice Party as a 'hostile takeover of the constitutional order', meaning the initiation of making changes to the Constitution by enacting ordinary laws and the initiation of a then categorical, unilateral change in the practice of applying the Constitution. For more on this topic, see M. Wyrzykowski, *Wrogie przejęcie porządku konstytucyjnego* [in:] M. Namysłowska, M. Bernatt, A. Jurkowska-Gomułka, A. Piszcz (eds.), *Wyzwania dla ochrony konkurencji i regulacji rynku. Księga jubileuszowa dedykowana Profesorowi Tadeuszowi Skoczemu*, Warszawa 2017, p. 831 et seq. and cf. R. Piotrowski, op. cit., p. 351.

Prof. Ewa Łętowska³) and the aspiration to change its political system. This was openly and directly confirmed only recently, in Janów Lubelski in April 2023, and immediately afterwards on 27 May 2023, in Kopczany in Podlasie, by PiS Chairman J. Kaczyński, who stated publicly: "we believe that after 2015 we made a change in Poland's political system, especially socio-economic, but also political" (sic!). These statements caused controversy to such an extent that after the interview in Kopczany there was a need to clarify "what did the President mean"? Commentary on these words was provided by Law and Justice (PiS) spokesman R. Bochenek, who, focusing on the formal aspect of the matter, stressed that neither in 2015 nor thereafter was the constitution amended, because, after all, PiS did not have a so-called constitutional majority. However, we know that, as Prof. Sł. Sowiński, a political scientist from the Cardinal Stefan Wyszyński University in Warsaw, aptly assesses, "at very many moments changes have been carried out that somewhere verge on something that could be called a certain systemic revolution." A more emphatic assessment is made by editor J. Majmurek, a journalist from *Krytyka Polityczna*, who in his commentary aptly concluded that Kaczyński has shown that regime change without formally changing the constitution is possible,

because he has done so very effectively by dismantling the Constitutional Tribunal (hereinafter: CK) from the Polish constitutional system as an independent constitutional court capable of putting a dam on the actions of the authorities that go beyond the framework set by the constitution⁴.

The progressive actual process of constitutional change and the increasing level of erosion of democracy in Poland has led to the coining of terms in legal literature and political journalism for these negative experiences of ours after 2015, such as a seemingly law-abiding state, constitutional nihilism (B. Komorowski; a term also used by L. Garlicki⁵), "systemic depreciation of the rule of law," "statutory anti-constitutionalism," "dual state," "dying constitutionalism"⁶.

³ Cf. the interview of 14.10.2020 with the above-mentioned persons entitled "On the extinction of the rule of law" in a conversation with Rafał Kałukin included in their book with an identical title published in Warsaw 2020, in the publishing house Arche S.C. Biblioteka Palestry, published by the Supreme Bar Council.

⁴ *Kaczyński mówił o „zmianie ustroju Polski”. „Autorytaryzm Piłsudskiego to jest pewne marzenie prezesa”,* <https://tvn24.pl/polska/jaroslav-kaczyński-o-zmianie-ustroju-polski-rozpaczetej-w-2015-roku-antoni-dudek-i-andrzej-rychard-o-komentują> [retrieved on: 03.03.2024]; cf. Radio RMF24 oprac. K. Fijałek – the same statement by J. Kaczyński in Janów Lubelski 22 April 2023 - Internet radio rmf24.pl- idem.

⁵ Cf. L. Garlicki, *Polskie prawo konstytucyjne*, Warszawa 2021, p. 38.

⁶ These concepts are cited by R. Piotrowski, op. cit., p. 354 et seq. Compare also: A. Grabowski, B. Naleziński, *Konstytucyjne prawo do niezawisłego i bezstronnego sądu w państwie pozornie praworządnym*, „Państwo i Prawo” 2020, No. 10, p. 27; L. Garlicki, *O powołaniu naszych czasów do uchwalania konstytucji*, „Państwo i Prawo” 2017, No. 9, p. 6; J. Wawrzyniak, *Systemowa deprecjacja praworządności*, „Państwo i Prawo” 2021, No. 9, p. 61.

2. Oath of office to a constitution that the president does not intend to respect, or respects only selectively

At the head of such a politically oriented state and the tendency to interpret its constitution in this spirit was twice-elected President of the Republic of Poland A. Duda, who, as a lawyer with a doctoral degree, could not fail to understand that by swearing allegiance to the provisions of the Constitution (which is not revealing, but it is worth and should be said)⁷, remains or will remain quite consciously (sometimes even deliberately) in obvious conflict with it. This conflict has been present since almost the first day of his tenure in his first term in connection with the application of the law of clemency for M. Kamiński, M. M. Wąsik and other officers of the Central Anticorruption Bureau, and has only multiplied in obvious and overt ways with the beginning of his second term in 2020.

If we consider that the act of taking the presidential oath of office is not just a purely ceremonial act, and, moreover, has a deeper moral-symbolic meaning, and even has a legal significance with respect to the sovereign⁸, then we must recognize the seriousness of this problem. So let us remind you at once that the act of taking an oath is a condition for assuming the office of head of state, and thus in itself means acting as a guarantee that the President will abide by the Constitution. The enunciation of the contents of the oath's text, even if it does not directly give rise to legal obligations, is rightly treated in the doctrine as a general interpretive directive on how the President should exercise his powers. From this point of view, unconstitutional actions of the presidential office holder constitute a misappropriation of the act⁹.

3. President and existing political base

Nowhere does the Constitution explicitly include a requirement that the head of state be apolitical as understood with regard to judges, the military, the Chairman of the Supreme Audit Office and the Ombudsman. It is said, however, that if, after taking office, the president truly wants to be "the president of all the citizens of his country" and create for himself the prospect of playing a real role as a representative and spokesman for the interests of the entire Nation and an impartial arbiter of the ongoing political game, he should leave his previous party legitimacy deep in a locked drawer of his desk. Such an attitude is

⁷ The first time on 6 August 2015 and the second time on 5 August 2020. Cf. Balicki R., *Prawne grzechy Andrzeja Dudy. O prezydenckiej przysiędze i łamaniu konstytucji* <https://oko.press/prawne-grzechy-andrzeja-dudy> [retrieved on 03.03.2024]

⁸ Cf. *ibidem*.

⁹ Cf. *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, P. Tuleja (ed.), Warszawa 2019, p. 386.

conducive to remaining a desirable, politically impartial factor. This can be a kind of salutary isolation from the parent political force preventing one from easily becoming a party to political conflicts under conditions of inevitable strong tensions at the "peaks" of power, especially since the political situation can be not only complicated but also extremely dynamic. However, this is obviously a postulate from the sphere of political culture, which does not mean that it is of secondary importance¹⁰.

President A. Duda, hailing from the Law and Justice party and holding office thanks to the Law and Justice party, did not get rid of his sense of gratitude or dependence on the parent political grouping during both terms of office, and with many of his actions (including recently) confirms¹¹, "that he is the president of the Law and Justice party," without ever breaking "from the role of the Law and Justice party's helper" and executor of the will of political principals¹². Hopes of independent thought and action raised incidentally passed quickly. Such, after all, was the case with hopes of presidential independence in 2017, when there were hopes of vetoing judicial bills. But at the time, the President vetoed laws on the Supreme Court and the National Council of the Judiciary, but signed a key, troubled law on the common courts. And yet, several amendments to the Law on the System of Common Courts were undertaken between 2016 and 2018 with the granting, in contradiction to Article 10(1) of the Constitution, many serious but unauthorized powers over the staffing of common court bodies. The President eventually approved these solutions by signing the relevant amendments without resistance. Although he had flashes of relative sanity or political prudence when vetoing, for example, the so-called *lex Czarnek I*, or *lex TVN* (there were times, however, that he actually did so under external pressure - as in the case of *lex TVN*, but without hesitation he signed quite recently the so-called *lex Tusk*, absurdly and extremely emotionally justifying in a special televised speech the need for it to come to fruition, after which a few days later, also probably under the influence of massive external pressure and criticism (including from the US), he decided that he had rushed to sign the first version of the law and initiated a project to amend it at express speed. These are just some of the recent examples of controversial presidential practice. The fundamental trouble, however, is not only the considerable deference of the presidential office to the central political establishment, but also the fact that it legitimizes initiatives in clear contradiction to the Constitution.

¹⁰ Cf. D. Dudek, *Autorytet Prezydenta a Konstytucja Rzeczypospolitej Polskiej*, Lublin 2013, p. 22.

¹¹ We are talking about the delay in announcing the date of the elections, which was to the advantage of the ruling camp, as it was possible to conduct a camouflaged electoral pre-campaign using funds outside the limits provided for in the relevant legal regulations subject to control by the State Electoral Commission as part of the regular electoral campaign – cf. M. Janicki, *Nowy start starej kampanii*, „*Polityka*” 2023, No. 34, p. 15.

¹² R. Grochal, *Ostatnia misja Dudy*, „*Newsweek*” 2023, No. 35, p. 8.

The trouble with this presidency is that it so overtly and unequivocally identifies with only one side of the political system. No president to date has been seen so directly as an executor of the interests of his environment as A. Duda is to the PiS political environment¹³.

4. Presidential (wrong) impression of the extent of his own authority

Without going into the details, in this group of experts on the problem, it is only worth recalling that in the 1997 Polish Constitution, the president obtained a disproportionately strong legitimacy for his office (popular election) in relation to the scope of the power granted to him. The president's power, formally speaking, is not very strong, but also not overly weak. Not surprisingly, the concept of presidency outlined in our constitution was vividly described at one time by P. Sarnecki as "hybrid", in any case not very coherent. There is no denying the fact that the aforementioned disproportionality meant that there have already been attempts in our country to break out of the "constitutional suit" rather tightly tailored and out of step with the political ambitions of some presidential office holders. This, of course, refers to President L. Wałęsa, but his overactivity in this regard taking the form of the so-called "falandyzacja" [*translator's note: 'stretching of the law', term derived from the name of the Deputy Head of the Chancellery of the President of the Republic of Poland Lech Falandysz*] of the law resulted in conflicts known as the "war at the top" and the formal restriction of the position of the president in the final version of the Constitution.

Somewhat similar is the case today. This is particularly evident on several occasions in the context of the approach to the institution of so-called presidential prerogatives under Article 144(3) of the Constitution. In the presidential camp, the prevailing belief seems to be that the president is something like an absolute ruler, not subject to the law and exempt from assessment of the legality of his actions. The problem arose, among other things, in the case already cited here of the president's prerogative exercise of the right of clemency in the case of M. Kamiński and others,¹⁴ and in the case of the court's ability to examine the correctness of the selection of the president of the Constitutional Court.

We are familiar with and approve of the view that "in making decisions within the prerogatives, the President cannot act completely arbitrarily, and he

¹³ Cf *ibidem*, p.10.

¹⁴ The Supreme Court, in a resolution of a panel of seven judges of 31 May 2017 in case no. I KZP4/17, stated its jurisdiction under the Constitution to assess whether the exercise of a prerogative (in a specific situation "the content of the applied right of clemency") is "within the limits of the law and does not violate other constitutional norms (...)". The Supreme Court then considered that it was obliged to make such an assessment due to its constitutional position.

is bound by the principles and values expressed in the Constitution."¹⁵ It must not be forgotten that the President is also a body of public power, and since this is the case, it is absolutely correct in the assessment of R. Piotrowski that the view that "the President exercising the prerogative is *legibus solutus* (not subject to the laws) like a ruler, and therefore acts outside the legal order, is untenable in light of the provisions of our Constitution."¹⁶ On the contrary, "the President is subject to its provisions, and in a special way, as the one who ensures compliance with the Basic Law and, in addition, after all, also as a citizen, he is an addressee of the content of the Constitution, and as such a subject on an equal footing with other addressees, he is obliged to comply with it"¹⁷. This means that as president he can act independently and even against the will of the government and parliament, but in light of the CT ruling of 3 December 2015 K.34/15, the institution of prerogative must be seen as an element of the relationship of the head of state with the government and parliament, although this does not mean "establishing a specific sphere of discretionary power of the head of state." The president remains bound by the principle of separation of powers and their balance and the principle of legalism¹⁸.

All this, however, does not mean arbitrariness of presidential action. For nothing in the Constitution allows the president to act according to the principle of "*Hoc volo, sic iubeo, sit pro ratione voluntas*" (This is what I want, this is what I command, let my will suffice as reason). On the contrary," aptly concludes R. Piotrowski, "violation of the Constitution, including in the area of prerogatives, entails responsibility before the State Tribunal, presided over by the First President of the Supreme Court"¹⁹.

Now we have a second opening of the front of the conflict caused by the desire to expand this too-tight constitutional corset restricting the alleged president. It is about the bill amending the law on cooperation of the Council of Ministers with the Sejm and the Senate in matters related to the Republic of Poland's membership in the European Union and the law on the Committee for European Affairs (Senate print no. 1081). The project was initiated by the presidential office. The bill, passed on 17 August 2023, is a bizarre attempt at a renewed but cursorily interpretive reading of the president's status as the "highest representative of the Republic of Poland" under Article 126(1) of the Constitution. According to legal opinions submitted to the Senate of the Republic of Po-

¹⁵ B. Banaszak, *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, Warszawa 2009, pp. 864 and 687 and cf. D. Dudek, op. cit., p. 13.

¹⁶ R. Piotrowski: *Prezydent nie jest władcą absolutnym, podlega prawu, a władza sądownicza może oceniać legalność jego działań*, <https://monitorkonstytucyjny.eu/archiwa/1377> [retrieved on: 03.02.2024].

¹⁷ Cf. D. Dudek, op. cit., p. 11.

¹⁸ Cf. L. Garlicki, *Polskie prawo konstytucyjne. Zarys wykładu*, Warszawa 2022, p. 298; cf. D. Dudek, op. cit., p. 13.

¹⁹ R. Piotrowski: *Prezydent nie jest...*

land, the law in question violates the principles of reliability and efficiency of public institutions indicated in the preamble of the Constitution of the Republic of Poland (art.10(1) of the Constitution, art.126(3) in connection with art.146(4)(9) of the Constitution, and art.133(3) in connection with art.7 and the preamble of the Constitution of the Republic of Poland). In addition, the opinions indicate that the entire law is inconsistent with Articles 112 and 119(1) of the Constitution to the extent that it was enacted in contravention of the applicable procedure.

In the context of the cited provisions of the Basic Law, it can be seen that the aforementioned law reactivates a solution that introduces a permanent risk of resuscitating the dispute between the President of the RP and the Council of Ministers on European issues of key importance. Indeed, the law shapes a potentially dysfunctional solution. In this regard, an excellent analysis is contained in the opinion of Prof. R. Piotrowski drawn up for the purposes of the Senate's procedure on the law. The thesis that, here, the law creates anew the conflict (because, after all, it invalidates the verdict of the Constitutional Tribunal of 2009), after all, correctly from the constitutional point of view, resolved already 14 years ago by the decision of the Constitutional Tribunal²⁰ on the competency dispute at that time, and aims to revise this decision insofar as it confirms the fundamental role of the Council of Ministers, and not of the President, clearly defined in the Constitution of the Republic of Poland, in European affairs, which makes the solutions of the law a real threat to the efficiency of public institutions. In light of the Constitution, the status of the "highest representative of the Republic of Poland" alone does not unequivocally determine the President's participation in meetings of the European Council²¹.

In this way, the president deprives himself of the status of a "fuse" in the state, and further deprives the state of having an agent cast in the role of a sensor activated in a situation of crisis or conflict. For this reason, therefore, the president is creating a rationale for pushing a confrontational attitude instead of an attitude of pragmatism and political moderation. It is clear that this must mean an increased risk of the head of state becoming an active party to political conflicts.

In doing so, it should be further emphasized that the president is responsible for "the state of observance of the Constitution in his own conduct and in the conduct of others. Thus,

one's own observance of the Constitution, in the conduct of the body in question (its holder or holders), constitutes only a certain common minimum rule, but some of the

²⁰ Cf. order of the CT in the competence dispute, ref. Kpt2/08 of 20 May 2009. (ipo.trybunal.gov.pl).

²¹ Cf. R. Piotrowski, legal opinion entitled „Ryszard Piotrowski: Sam status «najwyższego przedstawiciela RP» nie przesądza jednoznacznie o udziale Prezydenta w posiedzeniu Rady Europejskiej”, <https://monitorkonstytucyjny.eu/archiwa/26282> [retrieved on: 03.03.2024].

addressees of the Constitution are nevertheless burdened with special guarantee obligations in this regard, directed *ad extra*. Such is the condition of the President of the Republic²².

5. The image of the presidency in the process of social communication and the sense of the power of political will as a causal will

This image has been handled differently since the beginning of the Third Republic. Each of the presidents had problems with it. To the annals went the impatient response of the late Lech Kaczyński to a voter asking about something - "fuck off, ladies" or Bronisław Komorowski two years after the Smolensk crash - "the Polish aviator is such that he will even fly on a barn door", or "assassination alike the visit", as to the circumstances of the shots accompanying L. Kaczyński's visit to Georgia.

Andrzej Duda, too, despite being regarded as a skilled speaker, has managed to infuriate his listeners on several occasions - such as during the celebration of the 100th anniversary of AGH University in Cracow, in X 2019, when he told an embarrassing joke about the Rector of AGH and cannibals, or when he recently asserted during a police holiday that the Polish police do not act aggressively despite the widespread knowledge in Poland that the police have become more brutal than before and that they are a formation responding to the political demands of power.

It is not these infamous examples, however, that we should be concerned with here. Far more troublesome are other examples, testifying to his persistence in the role of an obedient PiS sidekick who doesn't even care much about the positive image of his presidency.

There are many examples, but let just these few suffice as particularly glaring ones.

1. On 18 November 2015, immediately after being sworn in, President Duda publicly stated: "I decided to release the justice of the M. Kamiński case, which would always be seen as political (...), I decided to settle this dispute on my responsibility as president." The president did so without regard to the fact that he stepped into the proverbial "shoes of the court" in deciding Kamiński's guilt, since he applied the right of clemency by pardoning and letting go and discontinuing the proceedings. The president probably forgot that the executive branch cannot compete with the judiciary, and the president cannot "free the judiciary" from exercising the constitutional power assigned to it. Undoubtedly, the president's decision and the form in which it was communicated was accompanied by an unambiguously negative message, in which the president additionally portrayed the judiciary as a political instrument whose judges misappropri-

²² D. Dudek, *op. cit.*, p. 14.

ate their independence and demonstrate political disposition. Recall that on 6 June 2023, the Supreme Court overturned the discontinuance of the case of M. Kamiński et al. treating the 2 June 2023 verdict of the Constitutional Court of J. Przyłębska as a judgment without legal effect. R. Balicki is correct when he assesses that "President Duda did not make this decision for social or moral reasons" and that the case was accompanied by extreme political motives for action. To "make it easier for his former political party to fill government positions"²³.

2. When the Seventh Sejm elected five judges of the Constitutional Tribunal on 8 October 2015, based on the new law on the Constitutional Tribunal, which came into force on 30 August 2015, it turned out that three had been elected correctly (R. Hauser, A. Jakubecki, K. Ślęzak) and two incorrectly (for the spare, and therefore also understudies). Nota bene A. Duda, who had already been president of the Republic of Poland since 6 August 2015, did not challenge the constitutionality of the Law on the Constitutional Court, and this is the only way he could justify postponing the acceptance of the oath of office from legally elected judges of the Constitutional Court. Legally elected judges should therefore be sworn in unconditionally by the president. However, President Duda refused to swear in all five, thereby preventing three duly elected judges from performing their duties, in violation of both the Constitution and the Law on the Constitutional Court. The Eighth Sejm invalidated the resolution on the election of these five judges, after which it made its own election of five other people to the CT, from whom the president promptly took the oath of office. Three of these five thus took the places of three persons duly elected by the previous Sejm. They earned the nickname "duplicate judges," and their swearing-in took place in violation of the Constitution. Their lack of right to rule in the formations of the Constitutional Court was confirmed by the European Court of Human Rights in its rulings²⁴.

There is no doubt that a man with a university degree in law, and even a doctorate from a prestigious Polish university (a well-educated lawyer, as his promoter said of him), could not have been unaware of the far-reaching legal consequences of his official decisions. Inevitably, the assumption arises that this action was in coincidence with the assumption adopted in the Law and Justice party of a slow, carried out *de facto* and without formal amendment of the constitution - change of the state system. President of the Republic of Poland A. Duda by his omissions or actions joined actively in the process of destroying the state system, as a result of which the state was deprived of important control institutions and security mechanisms, including the Constitutional Court. Without the President's participation, PiS would not have been able to take over and realistically destroy the Court.

²³ Cf. *ibidem*.

²⁴ Cf. Judgment of the European Court of Human Rights of 7 May 2021 in the case of Xero Flor v. Poland (Application no. 4907/18), from which it follows that a member of the bench of the CT in this case was elected to the CT in a manifest error of law - Ombudsman's application to the CT in the case K 7/21 (VII.510.112.2021.CW).

Possessing the relevant constitutional powers, the President consciously abandoned his role as guardian of the Constitution, i.e. he failed to "watch over the observance of the Constitution," consenting to a passive (by omission) violation - the failure to take the oath of office of the duly elected three judges), and then to an active, unconstitutional action, by accepting the oath of office from those elected to the Constitutional Court redundantly this time by PiS.

3. President Duda emotionally supported, and with a determination worthy of a better cause for sure, the enactment of the so-called Lex Tusk (the Law and Justice Party's intention was to eliminate D. Tusk from political life), a blatantly unconstitutional and anti-democratic law also abbreviated as the Law for Investigating Russian Influence in Poland 2007-2022. The President not only supported, justifying the necessity of this act, which took place on 28 May 2023. but signed it without delay, ensuring its immediate entry into force (as of 31 May 2023), although at the same time he sent it back to the Law and Justice Party-dominated, and now additionally personally divisive, Constitutional Tribunal for a follow-up examination of its constitutionality, in other words, actually sending it back for examination "ad Kalendas Graecas." The law was opposed by the Polish Senate, and the criticism of the law was additionally so crushing and widespread²⁵, that A. Duda himself, under the influence of extremely critical domestic and international public opinion, as early as 2 June 2023, came up with a comprehensive amendment proposal, in a slightly watered-down but still unconstitutional version.

There is a fairly unanimous opinion in democratic public opinion, epitomized by Prof. Ewa Łętowska, a great legal and moral authority in our country, that "Lex Tusk represents the end of the stage of democracy in its current form in Poland. The law will promote further brutalization and hypocrisy of the electoral theater, already far from integrity in our country." Asked to comment on the bill, the professor added that it is "an act that escapes the judgments of a legal scholar. It is certainly patently unconstitutional, and there was no concealment from the beginning of the intentions for which the act is created. The entire legal layer here is just a label - falsely legitimizing something that constitutionally and according to the principles of legal literacy cannot be subjugated."

Conclusion

"Good change," the name initially even became a catchy slogan for the presidential campaign of A. Duda just in 2015, when he faced off against B. Komorowski, who was fighting for re-election, and won. Today the name, in the context of PiS's state-destroying activities, has an unmistakably ironic dimension. It

²⁵ 53% of Poles surveyed were against the speckomission - United Surveys for DGP and RFM FM.

quickly became clear that the guiding idea of the "good change" is to be a process of "extinguishing the rule of law"²⁶ and seeking to change its system, as confirmed by PiS Chairman J. Kaczyński himself recently, in Janów Lubelski in April 2023, and immediately afterwards in Kopczany in Podlasie on 27 May 2023. This is indeed the case. The Law and Justice Party has made, and the process is underway, an unconstitutional change of the state system, and the presidential office has supported/and actively pursued/implemented these unconstitutional behaviours. He has failed with his actions to live up to the hopes placed in him and has repeatedly embezzled his oath of office. These presidential actions do not represent mere differences in details, about which one may differ, and the stated long-range goal is the same! No, this is not the case! In fact, we are dealing with differences of a fundamental nature on key issues as to the vision of the state, as to its principled matters of strategy in all fields and as to its thorough-going future. The presidency of A. Duda is a destructive and unreflective presidency. The type of "good change" adopted for implementation inevitably leads its guardian to the State Tribunal.

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²⁶ Cf interview of 14.10.2020 by the aforementioned persons entitled. "O wygaszaniu państwa prawa" in a conversation with Rafał Kałużin included in their book with an identical title published in Warsaw 2020, in the publishing house Arche S.C. Biblioteka Palestry, published by the Supreme Bar Council.

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Od idei „dobrej zmiany” do Trybunału Stanu? Kilka refleksji nt. praktyki prezydentury w Polsce po 2015 r.

Streszczenie

„Dobra zmiana” to początkowo hasło kampanii prezydenckiej A. Dudy, gdy w 2015 r. z B. Komorowskim konkurował o fotel prezydencki. Szybko okazało się, że przewodnią ideą „dobrej zmiany” ma być proces „wygaszania państwa prawa” i dążenia do zmiany jego ustroju. I rzeczywiście prezes PiS J. Kaczyński w Janowie Lubelskim w kwietniu 2023 r., a potem w Kopczanach na Podlasiu 27 maja 2023 r., potwierdził te intencje. W istocie PiS dokonał zmiany ustroju państwa w trybie niekonstytucyjnym, a urząd prezydencki te niekonstytucyjne zachowania wspierał i czynnie realizował. Jego piastun nie spełnił pokładanych w nim nadziei. Te działania prezydenckie nie były tylko różnicami w szczegółach, co do których można zawsze się różnić. Działania Prezydenta RP oznaczały budowanie fundamentalnych różnic w wizjach państwa co do jego pryncypialnych spraw strategii na wszelkich polach i co do jego globalnej przyszłości. Prezydentura A. Dudy stała się prezydenturą destrukcyjną i bezrefleksyjną. Typ „dobrej zmiany” przyjętej do realizacji zdaje się prowadzić nieuchronnie jej piastuna przed Trybunał Stanu.

Słowa kluczowe: dobra zmiana, praktyka prezydentury A. Dudy, prezydentura destrukcyjna, Trybunał Stanu.